

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte CHINMEI CHEN LEE and DOUGLAS WILLIAM VARNEY

Appeal 2007-0638
Application 09/933,655
Technology Center 2600

Decided: May 16, 2007

Before DONALD E. ADAMS, TONI R. SCHEINER, and ERIC GRIMES, *Administrative Patent Judges*.

GRIMES, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 involving claims to a wireless communication system and a method of controlling surveillance. The Examiner has rejected the claims as anticipated or obvious. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

BACKGROUND

The Specification describes “a method of initiating surveillance” in which “a mobile terminal subscriber can seize control of and direct

surveillance equipment to focus in on an identified area. . . . The area placed under surveillance is the location of the subscriber's mobile terminal or a remote area identified by the subscriber" (Spec. 1-2).

In operation, a person located at, for example, a bus stop suddenly becomes aware that he/ she is in danger and needs help. With this system the mobile terminal subscriber dials a surveillance service by, for example, pushing a single button to dial a stored phone number. Upon completion of the connection, the geographical position of the mobile terminal subscriber is automatically obtained by the surveillance service. A video surveillance camera located in the vicinity of the mobile terminal is selected. Knowing the location of the video camera and that of the mobile terminal, the orientation of the video camera can be determined. This information is transmitted to the video camera control system to orient the video camera to focus in on the mobile terminal subscriber.

(*Id.* at 3.)

DISCUSSION

1. CLAIMS

Claims 1-9 and 11-21 are pending and on appeal. Except with regard to the § 102 rejection of claims 1 and 2, the claims subject to each rejection have not been argued separately and therefore stand or fall together. 37 C.F.R. § 41.37(c)(1)(vii). We will focus on claims 1, 2, 5, 11, and 19, which are representative and read as follows:

1. A method of controlling the surveillance of an area with a mobile terminal comprising the steps of;

receiving a request for surveillance from the mobile terminal,
identifying the area that is to be under surveillance, and
orienting equipment to effect surveillance of the identified area.

2. The method of claim 1 further comprising the step of:
using information from the mobile terminal to identify the area that is
to be under surveillance.

5. The method of claim 2 wherein the area under surveillance is
the area where the mobile terminal is located.

11. The method of claim 5 wherein a person at the mobile terminal
is in audio communication via the wireless network with an attendant at a
video monitor.

19. A wireless telecommunication system [comprising:
a video surveillance equipment coupled to a network; and
a mobile terminal coupled to said network, said mobile terminal
configured to cause said video surveillance equipment to initiate a request
for surveillance of an area], wherein the request for surveillance from the
mobile terminal is effected by activating a menu and selecting a surveillance
option from the menu.

Thus, claim 1 is directed to a method comprising “receiving a request
for surveillance from [a] mobile terminal.” We interpret the term “request
for surveillance” to include a message requesting a camera to monitor a
particular location. Appellants have provided no evidence that the term
“request for surveillance” should be interpreted differently.

Claim 1 requires the request for surveillance to be received from a
mobile terminal. Claim 1 also requires identifying the area that is to be
under surveillance and orienting equipment to effect surveillance of the area.
However, we do not interpret claim 1 to require that the area be identified
and the equipment be oriented based on the request for surveillance from the
mobile terminal. In particular, we do not agree that claim 1 requires that the
mobile terminal identify the area that is to be under surveillance (*see* Br. 10).
The Specification describes an embodiment in which the “area placed under

surveillance is the location of the subscriber's mobile terminal or a remote area identified by the subscriber" (Spec. 2), but claim 1 is not limited to this embodiment. "While a court may look to the specification and prosecution history to interpret what a patentee meant by a word or phrase in a claim, extraneous limitations cannot be read into the claims from the specification or prosecution history." *Bayer AG v. Biovail Corp.*, 279 F.3d 1340, 1348, 61 USPQ2d 1675, 1681 (Fed. Cir. 2002).

In fact, claim 1 does not require the request for surveillance to be received from a mobile terminal before an area that is to be under surveillance is identified and the equipment is oriented to effect surveillance of the area. "Unless the steps of a method actually recite an order, the steps are not ordinarily construed to require one." *Interactive Gift Express, Inc. v. Compuserve Inc.*, 231 F.3d 859, 875, 56 USPQ2d 1647, 1661 (Fed. Cir. 2000).

Claims 2, 5, and 11 depend (directly or indirectly) from claim 1 and add further limitations to the claimed method. Claim 19 is directed to a wireless telecommunication system including a mobile terminal and video surveillance equipment. A request for surveillance from the mobile terminal is effected by activating a menu and selecting a surveillance option from it.

2. REFERENCES

The Examiner relies on the following references:

Nunally	US 5,917,958	Jun. 29, 1999
Kawai	US 6,137,485	Oct. 24, 2000
Ozaki	US 6,342,915 B1	Jan. 29, 2002
Hsieh	US 6,400,264 B1	Jun. 4, 2002
Fernandez	US 6,697,103 B1	Feb. 24, 2004
Sato	US 6,704,040 B2	Mar. 9, 2004

3. ANTICIPATION BY FERNANDEZ

Claims 1 and 2 stand rejected under 35 U.S.C. § 102(e) as anticipated by Fernandez. The Examiner argues that the controller of Fernandez constitutes the mobile terminal of claim 1 (Answer 3). In particular, the Examiner argues that Fernandez “discloses in column 8, lines 20-22, that the controller is implemented in a portable computer, thus indicating the controller is mobile,” and that “a request is received from the mobile terminal, or controller, for initiating a surveillance sequence” (*id.* at 9).

We conclude that the Examiner has set forth a *prima facie* case that claims 1 and 2 are anticipated by Fernandez. Fernandez describes a system for monitoring movable objects (Fernandez, col. 1, ll. 33-36) at, e.g., a carrier transit site (*id.* at col. 4, ll. 3-10).

The system includes four basic elements: a target unit associated with a mobile object (*id.* at col. 5, ll. 36-38), detectors for detecting the target unit (*id.* at col. 5, ll. 46-52), a controller, and a network. The controller is preferably coupled to the network (*id.* at col. 2, ll. 22-27). Using the controller, a user may request surveillance of a location or object (*id.* at col. 6, ll. 59-63).

The network also couples to the detectors and to a communicator for communicating to target units (*id.* at col. 3, ll. 16-22). The detectors may be digital imagers or video capture devices (col. 4, ll. 22-25). The detectors “may be coupled to a control mechanism for adjusting detector operation, such as focus, tilt, [and] pan” (*id.* at col. 4, ll. 57-59).

The controller can determine the position of a target unit through the network (*id.* at col. 7, ll. 32-35). The controller coordinates remote

observation by selecting detectors to track mobile objects according to the location indicated by the target unit associated with the object (*id.* at col. 18, ll. 23-30).

As noted by the Examiner, Fernandez states that the controller may be implemented in a portable computer (*id.* at col. 8, ll. 19-21). Thus, we agree with the Examiner that the controller constitutes a mobile terminal. Although the controller can receive a request for “current or future monitoring or surveillance” (*id.* at col. 6, ll. 59-63), we agree with the Examiner that the controller also sends “a request for surveillance” to the network, which selects detectors to track mobile objects depending on the objects’ location (*id.* at col. 3, ll. 43-48 and col. 18, ll. 23-30). By selecting detectors, the controller identifies an area that is to be under surveillance. In addition, since the controller coordinates the detector selection (*id.* at col. 18, ll. 23-30), this area is identified using information from the controller, that is, the mobile terminal, as recited in claim 2. Furthermore, Fernandez describes “adjusting detector operation, such as focus, tilt, [and] pan” (*id.* at col. 4, ll. 57-59). Thus, Fernandez also describes “orienting equipment to effect surveillance of the identified area.”

Appellants argue that the controller 6 is not the mobile terminal of claim 1 (Br. 7). In particular, Appellants argue that “[c]laim 1 expressly recites that a request is received for surveillance from the mobile terminal, thus indicating that the controller 6 of Fernandez and the mobile terminal are two different entities. . . . It is the target unit 4 that provides object data that the controller 6 uses” (*id.* (emphasis omitted)). “[I]n claim 1, a request for

surveillance is *received from* the mobile terminal,” while, in Fernandez, it is the controller user that requests monitoring of a remote object (*id.* at 11).

We are not persuaded by these arguments. We agree with Appellants that the target unit 4 of Fernandez can be considered a “mobile terminal” as recited in claim 1. However, Fernandez’s controller 6 can also be considered a “mobile terminal,” as discussed above. After receiving information from a target unit 4, the controller sends a request to a particular detector to monitor a particular location; i.e., a “request for surveillance.” Thus, we agree with the Examiner that Fernandez describes a method comprising “receiving a request for surveillance from the mobile terminal.” This request is received by the network and ultimately by a detector, which carries out the request.

Appellants also argue that “the only information associated with orienting equipment is conveyed to the target unit 4” (Br. 9). We disagree. Fernandez also describes “adjusting detector operation, such as focus, tilt, [and] pan” (Fernandez, col. 4, ll. 57-61). Thus, we agree with the Examiner that Fernandez describes “orienting equipment to effect surveillance of the identified area.”

In addition, Appellants argue that “Fernandez does not teach that controller 6 identifies the area that is to be under surveillance. The controller 6 only monitors positional data associated with a mobile position of a given object. . . . The target unit 4 provides object data that the controller 6 uses” (Br. 10 (emphasis omitted)). “Since the user of the controller 6 provides input to specify or request surveillance of one or more

locations, in Fernandez, there is no need to identify the area that is to be placed under surveillance” (Reply Br. 5 (emphasis omitted)).

We are not persuaded by these arguments. First, as discussed above, claim 1 does not require the mobile unit to identify the area that is to be under surveillance. Thus, this argument does not apply to claim 1.

Claim 2 recites that the area that is to be under surveillance is identified using information from the mobile terminal. Fernandez states that a “controller user may provide input to specify or request current or future monitoring or surveillance of one or more certain location . . . or object” (Fernandez, col. 6, ll. 59-63) and that the controller coordinates remote observation by selecting detectors to track a mobile object according to the object’s location delivered by a target unit to the controller (*id.* at col. 18, ll. 23-30). Therefore, regardless of who or what ultimately identifies the area that is to be under surveillance, this information is received by the network from the controller. Thus, the area that is to be under surveillance is identified (by the network) using information from the controller/mobile terminal. Similarly, in the method described in Appellants’ Specification, a person identifies an area that is to be under surveillance through the mobile terminal (Spec. 2).

Appellants also argue that “the Examiner confuses the ‘portable’ nature of the controller 6 with the ‘mobile terminal’ of . . . claim 1” (Br. 11). In particular, Appellants argue that:

The phrase “portable computer,” as it is used in Fernandez, does not state that “the controller 6” comprises a “mobile terminal,” that receives a request for surveillance to control the surveillance of an area with that mobile terminal. Rather,

Fernandez indicates that controller 6 and the target units 4 are two distinct devices that are wirelessly connected.

(*Id.* at 12 (emphasis omitted).)

We are not persuaded by these arguments. We recognize that the controller 6 and the target units 4 of Fernandez are distinct devices, but we do not agree that the controller 6 cannot be considered a mobile terminal. Fernandez states that the controller may be implemented in a portable (i.e., mobile) computer (Fernandez, col. 8, ll. 19-21). Thus, we agree with the Examiner that Fernandez describes a controller that constitutes a mobile terminal.

In addition, contrary to Appellants' argument, claims 1 and 2 do not recite that the mobile terminal "receives a request for surveillance to control the surveillance of an area with that mobile terminal" (Br. 12 (emphasis omitted)). Instead, claim 1 recites that a request for surveillance is received *from* the mobile terminal. Claim 2 also recites that the area that is to be under surveillance is identified using information from the mobile terminal. For the reasons discussed above, we agree with the Examiner that Fernandez describes these features.

We conclude that the Examiner has set forth a *prima facie* case that claims 1 and 2 are anticipated by Fernandez, which Appellants have not rebutted. We therefore affirm the rejection of claims 1 and 2 under 35 U.S.C. § 102.

4. OBVIOUSNESS BASED ON FERNANDEZ

Claims 3-9, 12-17, and 20 stand rejected under 35 U.S.C. § 103 as obvious over Fernandez in view of Kawai.¹ The Examiner relies on Fernandez for teaching the features of claims 1 and 2, on which claim 5 depends (Answer 3).² With regard to claim 5, the Examiner argues that “it would have been obvious to use the location of the terminal to orient a camera to focus in on the terminal (Official Notice). Doing so would have been obvious in order to obtain a surveillance system that is more diverse by being able to view not only the surroundings but also the controller/terminal itself” (Answer 6).

Appellants argue that Fernandez “fails to teach or suggest control of surveillance of an area with a mobile terminal, as claimed in independent claim 1,” and that Kawai also fails to teach or suggest this feature (Br. 17). In addition, Appellants argue that Fernandez and Kawai “fail to provide any suggestion or motivation to modify a reference or to combine reference teachings to arrive at the Applicants’ claimed invention” (*id.*).

As discussed above, we agree with the Examiner that Fernandez anticipates claims 1 and 2. Appellants do not dispute the Examiner’s argument that “it would have been obvious to use the location of the terminal to orient a camera to focus in on the terminal” (Answer 6). We conclude that the Examiner has set forth a *prima facie* case that claim 5

¹ This rejection purports to include claim 10, but claim 10 was cancelled and is therefore not on appeal.

² The Examiner relies on Kawai for teaching features of claim 3 (Answer 5). As previously discussed, however, the rejected claims stand or fall together. We will consider claim 5 to be representative of the rejected claims.

would have been obvious over Fernandez in view of Kawai, which Appellants have not rebutted. We therefore affirm the rejection of claim 5 under 35 U.S.C. § 103. Claims 3, 4, 6-9, 12-17, and 20 fall with claim 5.

Claim 11 stands rejected under 35 U.S.C. § 103 as obvious over Fernandez in view of Kawai and Ozaki. The Examiner relies on Fernandez for teaching or suggesting the features of claims 1, 2, and 5 on which claim 11 depends (Answer 3). The Examiner relies on Ozaki for teaching “that it is well known in the art to provide a wireless audio link for communication between two terminals” (*id.* at 7). The Examiner argues that it would have been obvious “to take the apparatus disclosed by Fernandez . . . and add the audio link taught by Ozaki since it is well known in the art to do so” (*id.* at 7-8).

Appellants argue that Ozaki “fails to teach or suggest controlling the surveillance of an area with a mobile terminal based on the request for surveillance from the mobile terminal” and that “the cited references fail to provide any suggestion or motivation to modify a reference or to combine reference teachings to arrive at the Applicants’ claimed invention” (Br. 18).

As discussed above, we agree with the Examiner that Fernandez renders claim 5 obvious. Appellants do not dispute the Examiner’s argument that it would have been obvious to modify Fernandez’s apparatus by adding Ozaki’s audio link. We conclude that the Examiner has set forth a *prima facie* case that claim 11 would have been obvious over Fernandez in view of Kawai and Ozaki, which Appellants have not rebutted. We therefore affirm the rejection of claim 11 under 35 U.S.C. § 103.

5. ANTICIPATION BY SATO

Claims 1 and 18 stand rejected under 35 U.S.C. § 102(e) as anticipated by Sato. The Examiner relies on Sato for disclosing “an apparatus that relates to remote control for a videophone used for surveillance,” in which “the mobile terminal is the cellular phone” and “orienting equipment is adjusting the direction, magnification, and resolution of the camera” (Answer 4).

We conclude that the Examiner has set forth a *prima facie* case that Sato anticipates claim 1. Sato describes “a cellular phone set which can be used as a remote surveillance monitor” (Sato, col. 1, ll. 55-56). The cellular phone set comprises “a videophone function of performing real-time image transfer . . . and means for transmitting control data for controlling various functions including the videophone function on a distant side” (*id.* at col. 1, l. 65 to col. 2, l. 3). “[T]he operation of the camera is controlled in accordance with control information in received data. The operation of the camera includes setting of a direction, magnification, resolution, ON/OFF operation of images, and the like” (*id.* at col. 3, ll. 9-14).

We agree with the Examiner that, in the system described in Sato, the videophone receives a request for surveillance from the cellular phone, which constitutes a mobile terminal. When the cellular phone requests a change in camera direction, an area that is to be under surveillance has been identified. In addition, when the camera direction has been changed, the equipment has been oriented to effect surveillance of the identified area. Thus, we agree with the Examiner that Sato anticipates claim 1.

Appellants argue that the cellular phone set described in Sato “generates camera control requests to a connection destination,” but that “these requests are not for surveillance” (Br. 13 (emphasis omitted)). Thus, Appellants argue that

there is no teaching in Sato as to receiving a request of surveillance from the cellular phone set 1. Instead of controlling the surveillance of an area with the cellular phone set 1, Sato teaches controlling a destination camera. . . . In other words, the data controls the destination camera instead of controlling the surveillance of an area with the cellular phone set 1.

(Br. 13-14 (emphasis omitted).)

We are not persuaded by this argument. As discussed above, we agree with the Examiner that a message requesting a camera to monitor a particular location constitutes a “request for surveillance.” Thus, we agree with the Examiner that Sato describes receiving a request for surveillance from a mobile terminal.

Appellants also argue that,

rather than orienting equipment to effect surveillance of the identified area, Sato teaches that in response to the control information in received data, the operation of the camera itself is controlled. That is, the operation of the camera which generates the camera control request is controlled instead of orienting equipment. In other words, there is no teaching of orienting the destination camera.

(Br. 14 (emphasis omitted).)

As discussed above, Sato states that the “operation of the camera includes setting of a direction” (Sato, col. 3, ll. 9-14). Thus, we agree with the Examiner that Sato describes orienting equipment.

We conclude that the Examiner has set forth a prima facie case that claim 1 is anticipated by Sato, which Appellants have not rebutted. We therefore affirm the rejection of claim 1 under 35 U.S.C. § 102. Claim 18 falls with claim 1.

6. OBVIOUSNESS OVER SATO

Claim 19 stands rejected under 35 U.S.C. § 103 as obvious over Sato in view of Nunally. The Examiner relies on Sato for teaching the features of claim 18, on which claim 19 depends (Answer 4). The Examiner relies on Nunally for disclosing “activating a menu and selecting a surveillance option from the menu” (*id.* at 8). The Examiner argues that it would have been obvious “to take the apparatus disclosed by Sato and add the menu options taught by Nunally in order to obtain an apparatus that operates more efficiently by providing a security device that operates with greater flexibility by being able to customize different options for different cameras” (*id.*). We conclude that the Examiner has set forth a prima facie case that claim 19 would have been obvious.

Appellants argue that “*Sato* describes that the requests are *not* for surveillance from the cellular phone set 1” (Br. 19). In addition, Appellants argue that “*Nunally* fails to provide any suggestion or motivation to modify *Sato* or to combine reference teachings to arrive at the Applicants’ claimed invention” (*id.*).

As indicated above, we affirm the rejection of claim 18 as anticipated by Sato, and we agree with the Examiner that a message requesting a camera to monitor a particular location constitutes a “request for surveillance.” Appellants provide no reasoned basis to rebut the Examiner’s position that it

would have been obvious to add Nunally's menu options to Sato's apparatus. Nor do Appellants argue that the cited references do not teach or suggest any other limitation of claims 18 or 19. We conclude that the Examiner has set forth a *prima facie* case that claim 19 would have been obvious over Sato in view of Nunally, which Appellants have not rebutted. We therefore affirm the rejection of claim 19 under 35 U.S.C. § 103.

7. ANTICIPATION BY HSIEH

Claims 1 and 21 stand rejected under 35 U.S.C. § 102(e) as anticipated by Hsieh. The Examiner relies on Hsieh for disclosing "an apparatus that relates to a community-monitoring device," in which "the mobile terminal is the portable image monitor, the request is the camera rotation switch which requests the camera to be rotated," and "the orientation is the camera rotation" (Answer 4).

We conclude that the Examiner has set forth a *prima facie* case that Hsieh anticipates claim 1. Hsieh describes an "image monitoring device having the functions of memory, positioning, [and] automatically tracking" (Hsieh, col. 1, ll. 5-8). The device includes "a portable image monitor for controlling an indoor camera," the camera being in communication with the image monitor through a safety patrol box (*id.* at col. 1, ll. 10-13 and Fig. 1). The image monitor includes "an image display, an authorized code output and a camera rotation switch, such as a button or a joystick or a control box" (*id.* at col. 2, ll. 7-9), and operates by generating "system control signals including an authorization signal and a camera control signal" (*id.* at Abstract).

We agree with the Examiner that, by moving the camera rotation switch, the portable image monitor of Hsieh sends a request for surveillance of a particular location, which is received by the safety patrol box. When the image monitor requests rotation of the camera, an area that is to be under surveillance has been identified. In addition, by changing the camera direction, the equipment has been oriented to effect surveillance of the identified area. Thus, we agree with the Examiner that Hsieh anticipates claim 1.

Appellants argue that a request for surveillance does not correspond to requesting that a camera be rotated (Br. 14). “As such, a request for surveillance is not and cannot be received from the portable image monitor” (*id.* at 15 (emphasis omitted)). In contrast, Appellants argue that, in Hsieh, “when the residents go out or an alarm emits, the portable image monitor of neighbors, community managers, or safe guard members or police *will monitor*” (*id.*).

We are not persuaded by these arguments. As discussed above, we agree with the Examiner that a message requesting a camera to monitor a particular location is a “request for surveillance.” Thus, we agree with the Examiner that Hsieh describes receiving a request for surveillance from a mobile terminal, that is, the portable image monitor. As noted by Appellants, Hsieh states that “when residents go out or an alarm emits, the portable image monitor . . . will monitor” (Hsieh, col. 4, ll. 44-48). However, we agree with the Examiner that the request from the portable image monitor requesting camera rotation constitutes a request for

surveillance of a particular location, even though the monitor may already be monitoring a different location at the time of the request.

Appellants also argue that “since the secure image monitoring system of Hsieh teaches remotely monitoring a predetermined local site, there cannot be any need for identifying the area that is to be under surveillance. In other words, Hsieh fails to identify the area that is to be under surveillance.” (Br. 15 (emphasis omitted)).

We are not persuaded by this argument. At column 5, lines 7-8, Hsieh refers to “remotely monitoring a predetermined local site.” Although this local site is predetermined, choosing this site still constitutes identifying an area that is to be under surveillance. Furthermore, by rotating a camera, a particular site within the larger area is identified. Thus, we agree with the Examiner that Hsieh describes “identifying the area that is to be under surveillance,” as recited in claim 1.

We conclude that the Examiner has set forth a *prima facie* case that claim 1 is anticipated by Hsieh, which Appellants have not rebutted. We therefore affirm the rejection of claim 1 under 35 U.S.C. § 102. Claim 21 falls with claim 1.

SUMMARY

The Examiner’s position is supported by the preponderance of the evidence of record. We therefore affirm the rejection of claims 1, 2, 18, and 21 under 35 U.S.C. § 102 and the rejection of claims 3-9, 11-17, 19, and 20 under 35 U.S.C. § 103.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042